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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,359	04/11/2005	Heine Buus Pedersen	PATRADE	5016

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EXAMINER

CONLEY, FREDRICK C

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/528,359

Applicant(s)

PEDERSEN ET AL.

Examiner

FREDRICK C. CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

The disclosure is objected to because of the following informalities: The Applicant improperly recites a trademark name Velcro. Appropriate correction is required.

Claim Objections

Claim 1 line 1 is objected to because of the following informalities: The Applicant's use of the term "particularly" needs to be removed. Is the aid for beds or just operation tables? Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims ¹⁻¹¹~~1 and 8-9~~ are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 6, the Applicant's recitation "at free ends of, upright brackets " is confusing since it is unclear if the free ends of the roller are attached to brackets or are ends of bracket attached to free ends of upright brackets.

Claim 8, the use of a trademark name, such as Velcro, should not be used in the claims.

Claim 9, the Applicant's recitation "possibly a power source" is confusing and indefinite since it is unclear if the power source is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 5,697,109 to Hodgetts.

Claim 1, Hodgetts discloses an aid, wherein the aid includes a rotatable roller 42 oriented in parallel with and capable of being suspended at a long side of a bed or the under frame of the bed, where the rotational axis of the roller is capable of being elevated above the resting surface of the bed (fig. 2), as the ends of the roller are suspended at free ends of, upright brackets 50 releasably attached at the long side of the bed (fig. 1). With regards to the Applicant's recitation "for turning persons lying on a bed, particularly persons lying on an operation table", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by EPO Pat. No. 374,784 to Fregni et al.

Claim 1, Fregni discloses an aid for turning persons lying on a bed, particularly persons lying on an operation table, wherein the aid includes a rotatable roller 38 oriented in parallel with and suspended at a long side of a bed (fig. 1, 3, 4), where the rotational axis of the roller is capable of being elevated above the resting surface of the bed (3,6)(fig. 4), as the ends (27) of the roller (38) are suspended at free ends of, upright brackets and releasably attached at (26).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over EPO Pat. No. 374,784 to Fregni et al.

Claim 3, Fregni further discloses a motor disposed inside a cavity of a roller by a carrier bolt inserted through a hole in the wall of the roller (fig. 2). Fregni fails to disclose the motor being a gear type motor. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ gears in order to provide a more precise adjustment of the roller.

Claims 2, 4-8, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,697,109 to Hodgetts in view of U.S. Pat. No. 4,747,170 to Knouse.

Claims 2 and 4-5, Hodgetts further discloses an electric motor is provided at least at one end of the roller for rotation of the roller around its rotational axis (col. 7 lines 50-52). Hodgetts fails to disclose that the motor has gears and is fastened to the free end of a bracket with a fitting and a control unit. Knouse discloses an aid having a motor 62 having a gear reduction box 60 and connected to a control unit including a handheld operating panel 73 connected thereto via a communication interface. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a gear box and control unit as taught by Knouse in order to automatically move the patient along the bed of Hodgetts. With regards to the motor constituted by a step motor it is well known that a step motor and electric motor are equivalent means and it would have been obvious for one having ordinary skill in the art the time of the invention to employ a step motor as an alternative motive means for the aid of Hodgetts.

Claim 6, Hodgetts further discloses the brackets are constituted by angular fittings having legs (54,56) with holding means 70 disposed opposite to the free ends for releasable attaching of brackets and thereby the aid at the long side of a bed or its under frame, in that the holder means are adapted and interacting with the long side of the bed or its under frame so that the brackets and the roller are capable of absorbing forces oriented transversely and obliquely upwards relative to the resting surface of the bed (col. 5 lines 19-32).

Claim 7, Hodgetts further discloses the holder means is adapted and interacting with the long side of a bed or its under frame so that the free ends of the brackets are capable of pivoting within an acute angle in relation to vertical.

Claim 8, Hodgetts further discloses the roller surface has been provided with means for securing a sheet, and that the means includes a commonly known mechanical fastening means such as an adhesive tape (col. 6 lines 6-8).

Claim 10, including sliding guide ways interacting with holding means is mounted on a long side of the bed or its under frame, and where on the surface of the bed there is laid a sheet, one side of which being fastened to the roller by rolling up around it, and where the sheet is displaceable in the transverse direction of the bed by activation of the gear motor so that the sheet is rolled up on the roller.

Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,697,109 to Hodgetts in view of U.S. Pat. No. 4,747,170 to Knouse, and further in view of EPO Pat. No. 374,784 to Fregni et al.

Claim 9, Hodgetts discloses all of the Applicant's claimed limitations except for having a separate unit. Knouse discloses a separate unit 10 including wheels 20 and a member 31 telescopically received in an upstanding leg 28 (fig. 1). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ wheels and telescopic members as taught by Knouse in order to easily transport the aid from one bed to another. Hodgetts also fails to disclose actuators. Fregni discloses an aid with actuators 18. It would have been obvious at the time of the invention to employ actuators as taught by Fregni in order to raise and lower the aid of Hodgetts.

Claim 11, wherein on the surface of the bed there is laid a sheet having one side fastened to the roller by rolling up around it, and where the sheet is displaceable in the transverse direction of the bed by activating the gear motor so that the sheet is rolled up on the roller.

Response to Arguments

Applicant's arguments filed 1/09/06 have been fully considered but they are not persuasive.

Contrary to the Applicant's arguments, In response to applicant's argument that Hodgetts does not disclose an aid for turning persons lying in a bed, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

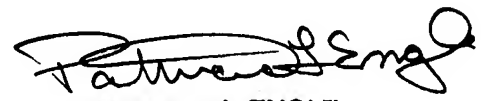
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICIA L. ENGLE can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC


PATRICIA L. ENGLE
PRIMARY EXAMINER
Art Unit 3673
3-20-2006